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7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-592**

12 **SUSAN E. FIGUEROA**
13 **937 Liberty Street**
14 **El Cerrito, California 94530**

A C C U S A T I O N

15 Registered Nurse License No. 558165
16 Public Health Nurse Certificate No. PHN 66180

17 Respondent.

18 Complainant alleges:

PARTIES

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 4, 1999, the Board of Registered Nursing issued Registered
23 Nurse License Number 558165 to Susan E. Figueroa (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on November 30, 2010, unless renewed.

26 3. On or about March 5, 2003, the Board of Registered Nursing issued Public Health
27 Nurse Certificate Number PHN 66180 to Susan E. Figueroa (Respondent). The Public Health
28

1 Nurse Certificate was in full force and effect at all times relevant to the charges brought herein
2 and will expire on November 30, 2010, unless renewed.

3 JURISDICTION

4 4. This Accusation is brought before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 STATUTORY PROVISIONS

8 5. Section 2750 of the Business and Professions Code provides, in pertinent part, that
9 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
10 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
11 Practice Act.

12 6. Section 2764 of the Business and Professions Code provides, in pertinent part, that
13 the expiration of a license shall not deprive the Board of jurisdiction to proceed with a
14 disciplinary proceeding against the licensee or to render a decision imposing discipline on the
15 license. Under section 2811(b) of the Code, the Board may renew an expired license at any time
16 within eight years after the expiration.

17 7. Section 2761 of the Business and Professions Code, in pertinent part, states:

18 "The board may take disciplinary action against a certified or licensed nurse or deny an
19 application for a certificate or license for any of the following:

20 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

21 ". . .

22 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
23 functions, and duties of a registered nurse, in which event the record of the conviction shall be
24 conclusive evidence thereof.

25 . . .

26 8. Section 2762 of the Business and Professions Code, in pertinent part, states:

1 "In addition to other acts constituting unprofessional conduct within the meaning of this
2 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
3 chapter to do any of the following:

4 ". . .

5 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
6 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
7 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
8 himself or herself, any other person, or the public or to the extent that such use impairs his or her
9 ability to conduct with safety to the public the practice authorized by his or her license.

10 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
11 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
12 or the possession of, or falsification of a record pertaining to, the substances described in
13 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
14 thereof.

15 . . .

16 9. Section 490 of the Business and Professions Code provides, in pertinent part, that a
17 board may suspend or revoke a license on the ground that the licensee has been convicted of a
18 crime substantially related to the qualifications, functions, or duties of the business or profession
19 for which the license was issued.

20 10. Section 125.3 of the Business and Professions Code provides, in pertinent part, that
21 the Board may request the administrative law judge to direct a licentiate found to have committed
22 a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
23 investigation and enforcement of the case.

24 11. California Code of Regulations, title 16, section 1444 provides, in pertinent part, that
25 a conviction or act shall be considered to be substantially related to the qualifications, functions
26 or duties of a registered nurse if to a substantial degree it evidences the present or potential
27 unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or
28 welfare.

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Substantially Related Crime)

12. Respondent is subject to disciplinary action under Business and Professions Code sections 490 and 2761(f), as defined by California Code of Regulations, title 16, section 1444, in that respondent has been convicted of a crime substantially related to the qualifications, functions or duties of a registered nurse, the circumstances are as follows:

a. On or about January 13, 2009 in a criminal proceeding entitled People of the State of California v. Susan Elizabeth Figueroa, San Francisco County Superior Court Case No. 2396010, the respondent was convicted by her plea on nolo contendere for violating Vehicle Code section 23152(a), a misdemeanor (driving under the influence).

b. On or about October 25, 2008, the respondent was involved in a traffic accident on U.S. Interstate I-280 in San Francisco County that resulted in her vehicle rolling over. Shortly thereafter, a California Highway Patrol Officer made contact with the respondent at the accident scene. The officer detected an odor of alcoholic beverage on the respondent's breath and he noticed that her eyes were red and watery. When the officer asked respondent if she had consumed any alcohol, she admitted to drinking a glass and a half of wine. Because of her injuries, the respondent was only able to perform the Preliminary Alcohol Screening Test (PAS). Based on the respondent's symptoms of intoxication, her PAS result, and her being the driver at fault of the traffic accident, the officer arrested the respondent on October 26, 2008 for driving under the influence of alcohol and driving with a blood alcohol level greater than .08 percent.

c. On or about January 13, 2009, the court placed the respondent on Court Probation for a period of 3 years, ordered her to serve 2 days in County Jail; ordered her to pay a fine in the amount of \$1481.61 and to pay a \$100.00 restitution fine; and ordered her to enroll and complete a 3 month First Offenders Program.

SECOND CAUSE FOR DISCIPLINE
(Use of an Alcoholic Beverages to an Extent or in a
Manner Dangerous or Injurious to Herself or Others)

13. Respondent is subject to disciplinary action under Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions

Code section 2762(b), in that on or about October 25, 2008 respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself or others as set forth in paragraph 12, above.

THIRD CAUSE FOR DISCIPLINE

(Conviction of an Alcohol Related Crime)

14. Respondent is subject to disciplinary action under Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, as defined by Business and Professions Code section 2762(c), in that respondent was convicted of a crime involving the consumption of alcoholic beverages as set forth in paragraph 12, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


1. Revoking or suspending Registered Nurse License Number 558165, issued to Susan E. Figueroa.

2. Revoking or suspending Public Health Nurse Certificate Number PHN 66180, issued to Susan E. Figueroa.

3. Ordering Susan E. Figueroa to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED: 5/17/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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